

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY  
OF SUNNYVALE AMENDING CHAPTER 5.04 OF THE  
SUNNYVALE MUNICIPAL CODE RELATED TO  
BUSINESS LICENSE TAX**

THE CITY COUNCIL OF THE CITY OF SUNNYVALE DOES ORDAIN AS  
FOLLOWS:

SECTION 1. SECTIONS 5.04.030 AND 5.04.040 AMENDED. Sections  
5.04.030 and 5.04.040 of the Sunnyvale Municipal Code are hereby amended to  
read:

**Section 5.04.030 General provisions—Definitions.**

Except where the context otherwise requires, the definitions  
contained in this section shall govern the construction of this chapter.  
The word "may" is always directory and discretionary and not  
mandatory; the word "shall" is always mandatory and not directory or  
discretionary.

(1)-(5) [Text unchanged.]

(6) "Collector" means the person designated as the revenue officer of  
the city of Sunnyvale for the purposes of this chapter.

(7)-(8) [Text unchanged.]

(9) "Fixed place of business" means a place of business located in  
the city of Sunnyvale ~~which is regularly kept open with someone in~~  
~~charge thereof for the transaction of business during customary~~  
~~business hours.~~

(10)-(11) [Text unchanged.]

(12) "Person" means all firms; domestic and foreign corporations;  
associations; syndicates; partnerships; joint ventures; clubs;  
Massachusetts business or common law trusts; societies; and any  
officer or agent thereof; and any natural person transacting, engaging  
in or carrying on any business in the city of Sunnyvale, but excluding  
an employee who is not also an owner.

(13)-(14) [Text unchanged.]

**Section 5.04.040 General provisions—Compliance with our  
requirements.**

Any person required to pay a business license tax under this  
chapter shall not be relieved from the payment of any other permit,  
fees or license tax for the privilege of doing such business required  
under any other provision of this code, and shall remain subject to  
the regulatory provisions of other chapters of this code.

SECTION 2. SECTION 5.04.080 AMENDED. Section 5.04.080 of the Sunnyvale Municipal Code is hereby amended to read:

**Section 5.04.080 Exemptions and exclusions—Disabled veterans.**

Nothing contained in this chapter shall be deemed or construed to require the payment of any fees or license tax by any honorably discharged or relieved veteran ~~named~~ described in Section 16001 or 16001.5 of the Business and Professions Code of California, ~~or~~ as amended, who is physically unable to earn a livelihood by manual labor and who is a voter or resident of this state, and who desires to hawk, peddle or vend goods, wares or merchandise owned by him, except spirituous malt, or vinous, or other intoxicating liquors, or to distribute circulars.

SECTION 3. SECTION 5.04.120 AMENDED. Section 5.04.120 of the Sunnyvale Municipal Code is hereby amended to read:

**Section 5.04.120 License tax--Method of computing number of employees.**

The total number of employees for whom a tax is to be paid shall be determined in the following manner:

(a) For any business having a fixed place of business in the city, the total number of employees shall be the greatest number of persons employed or expected to be employed or taking part in the business during any twenty-four hour period ~~within the twelve months period ending on December 31<sup>st</sup> next~~ preceding the date of application for a license, ~~or any renewal thereof.~~

(b) For any business not having a fixed place of business in the city, the total number of employees shall be the greatest number of persons employed or expected to be employed or taking part in the business within city limits during any twenty-four hour period ~~in which the licensee transacted, engaged in or carried on a business in the city within the twelve months period ending on December 31<sup>st</sup> next~~ preceding the date of application for a license, ~~or any renewal thereof.~~

SECTION 4. SECTION 5.04.140 AMENDED. Section 5.04.140 of the Sunnyvale Municipal Code is hereby amended to read:

**Section 5.04.140 License--Application and fee.**

All applications for licenses to be issued hereunder, including first time licenses, licenses for newly established businesses, and renewals of any previously issued license must be accompanied by payment of an application fee at the time of submittal. Pursuant to Section 5.04.130, the amount of the fee shall be fixed by resolution of the city council.

Each person making application for the first license to be issued hereunder, or a license for a newly established business, shall furnish to the collector a sworn statement (upon a form provided by the collector) setting forth the following information:

(a) The exact nature or kind of business for which a license is requested;

(b) The place where such business is to be carried on, ~~and if the same is not to be carried on at any fixed place of business, the places of residence of the owners of the business;~~

(c) If the license is to be issued to a person doing business under a fictitious name, the application shall set forth the names ~~and places of residence~~ of the owners of the business;

(d) If the license is to be issued to a corporation or a partnership, the application shall set forth the names ~~and places of residence~~ of the officers or partners thereof;

(e) The number of employees employed in the business which is the subject of the application;

(f) Any further information which the collector may require.

SECTION 5. SECTION 5.04.190 AMENDED. Section 5.04.190 of the Sunnyvale Municipal Code is hereby amended to read:

**Section 5.04.190 License--Renewal.**

When applying for the renewal of any license previously issued, the licensee shall submit to the collector upon a form to be provided by the collector, a sworn statement setting forth such information concerning the licensee's business during the preceding year tax period as may be required to enable the collector to ascertain the amount of the license tax to be paid.

SECTION 6. SECTION 5.04.250 AMENDED. Section 5.04.250 of the Sunnyvale Municipal Code is hereby amended to read:

**Section 5.04.250 License--Determination of tax--Application for hearing.**

The person so assessed may within fifteen calendar days after the serving or mailing of the notice referred to in Section 5.04.240 make application in writing to the collector for a hearing on the amount of the license tax assessed. If application for a hearing is not made within the time prescribed, the tax, interest and penalties, if any, determined by the collector shall become final and conclusive and immediately due and payable. If such application is made, the collector shall give not less than ten calendar days written notice in the manner prescribed herein to the person to show cause at a time and place fixed in the notice (which shall be not more than ~~fifteen~~thirty calendar days after receipt of the application for a hearing) why the amount specified therein should not be fixed for such tax, interest and penalties. At such hearing, the person may appear and offer evidence why such specified tax, interest and penalties should not be so fixed.

SECTION 7. SECTION 5.04.270 AMENDED. Section 5.04.270 of the Sunnyvale Municipal Code is hereby amended to read:

**Section 5.04.270 License tax payments--Generally.**

(a) All ~~annual~~ license taxes shall be due and payable in advance on the first day of January ~~of each in the year due~~, and shall become delinquent thirty calendar days thereafter. License taxes covering new business operations, commenced after the first day of January, shall be due and payable on the day such business is commenced, and shall be delinquent thirty calendar days thereafter. The ~~license-fee tax~~ for a new business commenced after the first day of July shall be fifty percent of the ~~annual license-fee tax~~ for that business specified herein for the first year only.

(b) Daily license taxes shall be due and payable on each day in advance. Unless otherwise specifically provided, license taxes shall not be prorated.

SECTION 8. EXEMPTION FROM CEQA. The City Council finds, pursuant to Title 14 of the California Code of Regulations, Section 15061(b)(3), that this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a Project which has the potential for causing a significant effect on the environment. The Council therefore directs that a Notice of Exemption be filed with the Santa Clara County Clerk in accordance with Section 14 of the Sunnyvale Guidelines for the implementation of CEQA.

SECTION 9. EFFECTIVE DATE. This ordinance shall be in full force and effect thirty (30) days from and after the date of its adoption.

SECTION 10. POSTING AND PUBLICATION. The City Clerk is directed to cause copies of this ordinance to be posted in three (3) prominent places in the City of Sunnyvale and to cause publication once in The Sun, the official newspaper of the City of Sunnyvale, of a notice setting forth the date of adoption, the title of this ordinance, and a list of places where copies of this ordinance are posted, within fifteen (15) days after adoption of this ordinance.

Introduced at a regular meeting of the City Council held on \_\_\_\_\_, 2004, and adopted as an ordinance of the City of Sunnyvale at a regular meeting of the City Council held on \_\_\_\_\_, 2004, by the following vote:

AYES:  
NOES:  
ABSENT:

ATTEST:

APPROVED:

\_\_\_\_\_  
City Clerk  
(SEAL)

\_\_\_\_\_  
Mayor